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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,525	12/20/2000	Paul E. Furner	J-2992A	9996

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EXAMINER

CLARKE, SARA SACHIE

ART UNIT PAPER NUMBER

3743

DATE MAILED: 01/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,525

Applicant(s)

FURNER ET AL.

Examiner

Sara Clarke

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21,22 and 24-37 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 22-38 have been renumbered 21-37.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33, 34, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Jung (DE 3403604).

Jung discloses the invention as claimed including a consumable wick 8 (see page 7, line 36), solid fuel made of wax (see page 7, line 22), a starter bump (bulge 9) separated from the wick 8 by indent 10. Fig. 3 shows the metal container 3 directing the flow of liquid contents to the wick. Because the container 3 is made of metal, a heat conductive material, and this metal container is attached to the heat conductive tube 4, it is configured to melt a solid fuel element, at least to some degree.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 22, 24-32, 35, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jung (DE 3403604) in view of Tsuda et al. (GB 1514338).

Jung discloses the invention substantially as claimed with the exception of a heat conductive element selected from the group consisting of lobes and wick holders with fins.

Tsuda et al. discloses a heat conductive tube 20 and teaches the use of a heat receiving portion 21 to conduct heat from the flame downwards through the tube 20. Figs. 1, 9, and 13 show the heat receiving portion 21 in the form of lobes or wick holders with fins. As shown in the figures, the heat receiving portion 21 cooperatively engages the fuel element by way of the tube 20. Giving the claims the broadest reasonable interpretation, the lobes or wick holders with fins reads on portions 21a and 131 in Tsuda et al.

Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the container and candle of Jung with a heat conductive element in the form of heat receiving portion 21 in the form of lobes or wick holders with fins as taught by Tsuda et al. to conduct heat from the flame downwards through the tube 20.

With respect to claim 30, since Jung and Tsuda et al. teach the structure of the claimed invention, they necessarily will operate to provide the claimed temperature distribution.

Allowable Subject Matter

Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendments/Arguments


Applicant's arguments with respect to claims 21-36 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

Any inquiry concerning this or earlier communications from the examiner should be directed to Sara Clarke whose telephone number is (703) 308-1388. The examiner can normally be reached on M-Thurs, 8:30-5:00, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (703) 308-0101. The fax phone numbers for the organization where this application is assigned are (703) 305-3463 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0861.


Sara Clarke
Primary Examiner
Art Unit 3743

January 9, 2003